

**Notice of Hearing
Before the North Dakota Department of Health**

Re: Periodic Review Hearing relating to North Dakota's Sulfur Dioxide (SO₂) Prevention of Significant Deterioration (PSD) Air Quality Modeling Report to the United States Environmental Protection Agency (DRAFT FINAL October 29, 2004)

PLEASE TAKE NOTICE that the North Dakota Department of Health (Department) will conduct a public hearing on April 19, 2005, beginning at 9:00 AM, at the North Dakota Heritage Center, Lecture Rooms A/B, 612 E. Boulevard, State Capitol Grounds, Bismarck, North Dakota. The purpose of the hearing is to receive oral and written comments on the following:

- “North Dakota’s SO₂ PSD Air Quality Modeling Report” (Draft Final October 29, 2004), and attachments B, C, D, F, G, and H, as completed pursuant to the February 24, 2004 Memorandum of Understanding (attachment A) between the State of North Dakota (State) and the United States Environmental Protection Agency (EPA);
- The modeling and analysis in the October 29, 2004 draft report and attachments that continues to show compliance with the relevant PSD increments.

Written comments may be filed with the Department at any time between 8:00 AM on March 18, 2005, and the close of the hearing, unless the hearing officer grants additional time. Written comments may be filed before the hearing with:

L. David Glatt, Environmental Chief
North Dakota Department of Health
1200 Missouri Avenue, Room 201
Bismarck, ND 58504
Tel.: 701.328.5150
Fax: 701.328.5200

Prior Periodic Review Proceedings

In 2002-2003, the State held a PSD periodic review hearing under 40 C.F.R. § 51.166(a)(4) to address several issues, including refining the modeling analysis for PSD increment review, determining the role of monitoring data in PSD compliance, reviewing the adequacy of the State’s state implementation plan (SIP), and determining whether the PSD increments were being complied with. On September 8, 2003, State Health Officer Terry L. Dwelle, M.D. issued a final order determining that there are currently no PSD Class I sulfur dioxide increment violations occurring in North Dakota or Eastern Montana, and that the State’s SIP is adequate to protect against air quality deterioration.

Scope and Purpose of This Proceeding

As required by finding 10.0 of the September 8, 2003 final order, at the conclusion of its 2002-2003 periodic review, the State entered into a process with EPA to resolve remaining issues relating to its PSD program. On February 24, 2004, the State and EPA entered into a

memorandum of understanding (MOU). The State and EPA agreed to a modeling protocol under the MOU, which the State forwarded to EPA on May 5, 2004. On November 8, 2004, the State forwarded its October 29, 2004 draft report and attachments to EPA as agreed under the MOU protocol. This hearing provides an opportunity for public comment on the above-noted draft documents before they are finalized. The October 29, 2004 draft report and its attachments, like the State's 2002-2003 periodic review, show continued compliance with PSD Class I SO₂ increments.

This is an investigatory hearing under N.D.C.C. chapter 23-25 and a periodic review conducted under the PSD provisions of the Clean Air Act (CAA §§ 160-169), North Dakota's SIP, and its implementing rules and notice requirements (including 40 C.F.R. § 51.102). At the close of the hearing, the Department will consider comments and evidence submitted into the record, and will revise and finalize the October 29, 2004 draft report and its attachments. It will also make a determination relating to the adequacy of the State's SIP, and whether the PSD SO₂ increments are being complied with.

The Department is also aware of recent EPA-approved refinements to CALMET and CALPUFF, and will continue to consider these and other EPA-approved air quality models as they become available or are submitted to the Department in future PSD or New Source Review proceedings (within the constraints of its budget and resources). In addition, the Department desires to use more refined meteorological data, monitoring data, and emissions data, as those data become available, after considering performance through model accuracy performance testing. This is consistent with the State's general policy to use air quality monitoring to provide an empirical basis by which modeling techniques are verified and "held to earth" by a continuing iterative process of confirmation and reassessment as better techniques, technically upgraded models, and more meteorological data, monitoring data, and emissions data become available for use in air quality assessments.

A document entitled "Background Discussion of Model Input Data and Potential Refinements" will be placed by the Department into the docket by March 15, 2005, which summarizes refinements that have been made to the State's modeling protocol, and potential refinements that may be considered, consistent with the State's policy to use best available verifiable data and technologies as they become available (within the constraints of the Department's budget and resources). Comments are also welcome at the hearing relating to this document.

Record and Availability of the Report and Other Documents

A docket has been opened for this hearing, and a written transcript of all oral presentations presented at the hearing will be completed after the hearing. All written comments received by the Department will be referenced in the docket and placed in the hearing record.

Because the October 29, 2004 draft report and its attachments refer to and rely upon the hearing record from the 2002-2003 periodic review, it will be incorporated by reference into this hearing record, and all additional documents considered or relied on by the Department for this hearing will be placed in the docket and available for public review by March 15, 2005. A list of

all these documents will be placed on the Department's website at <http://www.health.state.nd.us/AQ/Notices.htm> no later than March 15, 2005. Persons providing written or oral comments are encouraged to refer to these documents when their comments would be duplicative of evidence or comments already in the record.

If a significant period of time is needed to present oral comments (more than 15 minutes), the hearing officer should be contacted before the hearing to allow the schedule for the hearing to be appropriately arranged to allow all interested persons an opportunity to comment. The appointment of the hearing officer will be posted on the Department's website at least ten days before the hearing. The Department will consider the evidence, comments and written submissions presented at this hearing, as well as any relevant related matters properly submitted before the hearing record is closed, in making its final determination. Oral comments will be allowed as the hearing schedule permits and at the discretion of the hearing officer. Persons should be prepared to orally summarize any written comments in the time allowed by the hearing officer.

Questions relating to this hearing may be directed to Terry O'Clair, Director of the Division of Air Quality, at the address and telephone number listed below.

Dated this 7th day of March, 2005.

Terry O'Clair, Director
Division of Air Quality
North Dakota Department of Health
1200 Missouri Ave.
Bismarck, ND 58504
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